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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,438	08/07/2003	Gavin Brebner	500200905-2	8555

22879 7590 06/14/2006

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

MOON, SEOKYUN

ART UNIT	PAPER NUMBER
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2629

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/635,438	BREBNER, GAVIN	
	Examiner	Art Unit	
	Seokyun Moon	2629	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

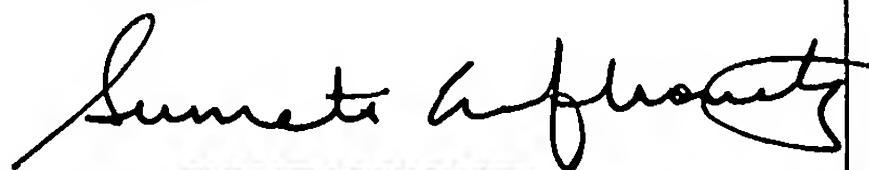
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.



SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER

In the applicant's argument regarding to claims 1, 14, and 15, applicant asserts that the orientation of the second electronic element 106 does not change, but remains in a same state as being laid flat on the surface.

However, since Lenchik discloses a portable electronic device, it would have been obvious to operate the device and thus to change the orientation of the components of the device in any direction rather than to operate the device in the state that the device is laid flat on the surface.

In the applicant's argument regarding to claim 2, applicant asserts that Lenchik does not disclose the housing being a cube, triangular pyramid, or a regular, OR irregular solid. However, Lenchik clearly teaches the housing being an irregular solid in the disclosed figures.

In the applicant's argument regarding to claim 5, applicant asserts that Lenchik discloses that the first and second electronic elements 104 and 106 are directly connected to each other via cable, where by a position sensor located within the first electronic element 104 uses a magnetic field sensor to determine its own direction.

However, even though the first and second electronic elements 104 and 106 are directly connected to each other via cable, the connection between them is for other data processing such as image or sound processing rather than orientation. Furthermore, the orientation changes on Lenchik's first and second electronic elements 104 and 106 cause the change on the amount of the magnetic field affected on the hall effect sensor 1377, and thus causes the change on the characteristics of the electrical signals transmitted by the hall effect sensor 1377, which allows the first element 104 to detect the change of the orientation and to change its operating state.

In the applicant's argument regarding to claim 17, applicant asserts that one skilled in the art would not be motivated to provide a switch having a conductive fluid since Lenchik's first and second elements 104 and 106 may be damaged due to a problem (e.g., leakage) with the switch.

However, even though Moskin teaches the switch implemented in the lower portion of the controller, the circuitries or connection (which is connected to the switch)

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implemented in the controller will still be damaged if a problem (e.g., leakage) occurs with the switch.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to adopt Moskin's switch as Lenchik's orientation detecting means.

The rejections regarding claims 16 and 19 are withdrawn.

June 8, 2006

S.M.